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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,063	01/15/2004	Roger D. Mickelson	17485	5100

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CNH AMERICA LLC
INTELLECTUAL PROPERTY LAW DEPARTMENT
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EXAMINER

LAZO, THOMAS E

ART UNIT	PAPER NUMBER
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3745

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,063

Applicant(s)

MICKELSON ET AL.

Examiner

Thomas E. Lazo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-13 is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4 is/are rejected.
- 7) ☒ Claim(s) 3,5 and 6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/15/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petch et al. or Loewe, in view of applicant's admitted prior art. Petch et al. (Loewe) disclose a hydraulic actuator with a tube 10(20) including a first end, a second end and an inner surface, a plug 11(22), a seal 28(30) abutting against the plug and the inner surface of the tube, an end plug 12(21) affixed to the second end of the tube to enclose and seal the second end of the tube, a piston configured to be slidably supported within the tube, and a piston rod affixed to the piston, wherein a portion of the plug is disposed inside the tube and a portion of the plug extends outside the tube, the seal is spaced from an attachment contact area, the end plug defines a rod opening, the piston includes a retract face, an extend face oppositely disposed to the retract face, and a lip (17,17a) protruding from the extend face, the piston rod extends out of the tube through the rod opening, the seal is an O-ring having a diameter, the piston has a diameter, the diameters of the O-ring and the piston are substantially the same, the plug includes a groove in the portion of the plug disposed within the tube, and the seal is disposed within the groove. Petch et al. or Loewe disclose a clip and a clamping screw to couple the first end of the tube to the plug, respectively

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and do not disclose a weld extending around the perimeter of the plug and coupling the first end of the tube to the plug, wherein the weld forms a fluid-tight seal between the plug and the tube.

Applicant's admitted prior art (see the background of the invention) teaches for a hydraulic actuator with a plug and a tube and that a weld extends around the perimeter of the plug and couples the first end of the tube to the plug, wherein the weld forms a fluid-tight seal between the plug and the tube for the purposes of assembling the hydraulic actuator.

Since Petch et al., Loewe, and applicant's admitted prior art are all hydraulic actuators, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the coupling mechanism of Petch et al. or Loewe, based on the teachings of applicant's admitted prior art, to be a weld extending around the perimeter of the plug and coupling the first end of the tube to the plug, wherein the weld forms a fluid-tight seal between the plug and the tube for the purposes of assembling the hydraulic actuator.

Allowable Subject Matter

Claims 3, 5, and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 7-10 are allowed. The improvement comprises the method step of supplying hydraulic fluid to retract the piston assembly to force the seal into an abutting relationship with the plug.

Claims 11-13 are allowed. The improvement comprises the method step of forcing the piston assembly into the tube to seat the seal.

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Prior Art

Prior art made of record but not relied upon is considered pertinent to Applicant's disclosure and consists of three patents.

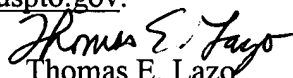
Framberg (4,211,150), Phillips (3,650,182), and Barnhart (2,865,693) are cited to show hydraulic actuators.

Contact Information

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Thomas Lazo whose telephone number is (571) 272-4818. The examiner can normally be reached on Monday-Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Edward Look, can be reached on (571) 272-4820. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to status of this application or proceeding should be directed to the Patent Application Information Retrieval (PAIR) system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.


Thomas E. Lazo
Primary Examiner
Art Unit 3745

TEL
March 29, 2005